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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/786,180

02/25/2004

Roger W. Meads

MEADS-08913

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MEDLEN & CARROLL, LLP  
101 HOWARD STREET  
SUITE 350  
SAN FRANCISCO, CA 94105

EXAMINER

VERBITSKY, GAIL KAPLAN

ART UNIT

PAPER NUMBER

2855

MAIL DATE

DELIVERY MODE

01/10/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/786,180

**Applicant(s)**

MEADS ET AL.

**Examiner**

Gail Verbitsky

**Art Unit**

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

Claims 1 and 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In this case, neither the limitation stating "compares temperature information..." has not been described in the specification.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 12 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: it is not clear how the "remote temperature sensor" is structurally related to the device. What does it measure?

Claim 12: it is not clear what applicant means by "herd". Does applicant mean "location of the cow in the heard"?

It is not clear what applicant means by "ambient temperature information from said implantable temperature device" and how it is being obtained by the implantable device. It appears that the ambient temperature is being obtained by the remote sensor.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 103 that form the basis for the rejections under this section made in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6, 8-9, 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace et al. (U.S. 4865044) [hereinafter Wallace] and Ridenour (U.S. 6113539).

Wallace discloses a device in the field of applicant's endeavor comprising an implant,

an implantable temperature device implanted in an ear of a cow including a thermistor 22 for measuring body temperature, a signal receiver/ transmitter 20, a processor, an animal identification device (digital chip) attachable to a body of an animal, a computer readable medium comprising a database of temperature information, and a remote/ ambient temperature sensor 23 for measuring ambient temperature of a cow compartment, wherein said processor compares temperature information received from said implantable temperature device and said remote temperature sensor with said database of temperature information and said animal identification device receives messages from said processor and generates a visual signal/ display, wherein said signal is detectable on the outside of the body/ remote of the animal upon receipt of the signal /message from the processor and wherein said implantable temperature device and animal identification device are configured for communication with the remotely located processor.

Wallace does not explicitly teach a two-way communication with a computer/ computer readable medium and that the alarm/ display is on the body of the cow.

Ridenour discloses in Figs. 5-9 a device in the field of applicant's endeavor wherein a microprocessor send signal to a remote computer, the computer/ computer readable medium analyses the signal and remotely instructs the microprocessor to illuminate an alarm light/ display on the body of the cow.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device disclosed by Wallace, so as to have a display on the body of the cow, the display controllable by a remote computer, so as to

allow the operator to spot the cow having an abnormal temperature out of the plurality of the cow in the parlor.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace and Ridenour as applied to claims 1-4, 6, 8-9, 11-13 above, and further in view of Hamel et al. (U.S. 6622567) [hereinafter Hamel].

Wallace and Ridenour disclose the system/ method as stated above.

They do not explicitly disclose that the transmission is a RFID transmission of claim 5.

Hamel discloses a device wherein the information has been transmitted using a RFID chip.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system/ method, disclosed by Wallace and Ridenour, so as to use RFID wireless communication device, as taught by Han, because both of this method are using wireless communication by means of radio frequency, as well known in the art, and because both of them are alternate types of the transmission means which will perform the same function, if one is replaced with the other.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace and Ridenour, as applied to claims 1-4, 6, 8-9, 11-13 above, and further in view of Han et al. (U.S. 6835553) [hereinafter Han].

Wallace and Ridenour disclose the system/ method as stated above.

They do not explicitly teach the limitations of claim 7.

Han discloses a system/ method comprising wirelessly transmitting a sensor data, an identification signal by means of Bluetooth wireless protocol and PDA (Personal Data Assistance) wireless communication device.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system/ method, disclosed by Wallace and Ridenour, so as to use Bluetooth wireless protocol, as taught by Han, in order to transmit and interpret data with high accuracy and low noise, and determine a patient's location by means of a known standard internet program, so as to minimize manufacturing costs by using a known program.

#### ***Response to Arguments***

Applicant's arguments filed on April 09, 2007 have been fully considered but they are moot in view of the instant rejection necessitated by the amendment.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited in the PTO-892 and not mentioned above disclose related devices and methods.

Stafford et al. (U.S. 5482008) disclose a device in the field of applicant's endeavor comprising a system having a temperature-sensing device (microchip) 32 and a microchip code circuit (identification device) 5.

Wallace et al. (U.S. 4865044) [hereinafter Wallace] discloses a system comprising an implantable (implant) in a cow ear temperature sensing device (transmitter) comprising

an identification number generated/ processed by an encoder (processor) to be transmitted along with a temperature sensed, a signal receiver comprises a decoder (device receiving a bit rate/ digital access device from the transmitter, and means (identification device) comprising identification code (col. 2, lines 35-46), thus, means in the implanted transmitter that used for identification or location. Also, the fact that Wallace discloses the identification code/ number would suggest that there is an identification device bearing/ storing the identification code/ number, and that the information should become available to an operator one way or another, i.e., as visual, auditory or visual/ auditory signal, so as to correlate the temperature to the particular cow.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gail Verbitsky whose telephone number is 571/ 272-2253. The examiner can normally be reached on 7:30 to 4:00 ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on 571/ 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GKV

*Gail Verbitsky*  
Primary Patent Examiner, TC 2800



December 31, 2007